



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Lean et al.

SERIAL NO.: 10/628,844

ART UNIT: 2861

FILED: 07/28/03

EXAMINER:

TITLE: BALLISTIC AEROSOL MARKING APPARATUS

ATTORNEY DOCKET NO.: D/A1175/690-011188-US (PAR)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW NOTICE TO FILE
MISSING PARTS OF NON-PROVISIONAL APPLICATION

Sir:

This petition is in response to the Notice to File Missing Parts of Non-Provisional Application filed under 37 C.F.R. 1.53(b) mailed October 23, 2003 (hereinafter the Notice, a copy of which is attached hereto) in the above indicated application. Pursuant to 37 C.F.R. 1.181, Applicant respectfully requests that the Notice be withdrawn because the Notice is improper.

In the Notice, it is indicated that the signature of Meng H. Lean, John J. Ricciardelli, Michael J. Savino, Osman T. Polatkan and Eric Lindale are missing from the oath and declaration.

The above noted indication in the Notice is incorrect.

(1) On July 28, 2003 Application papers pursuant to 37 C.F.R. 1.51, 1.53(b) were filed in the above identified patent application using the Express Mailing procedure pursuant to 37 C.F.R. 1.10.

(2) The Application papers were filed together on the above noted date and included the Specification including the Claims, Drawings and the Declaration of the inventors (hereinafter the Declaration). A copy of the Declaration included with the Application papers filed on July 28, 2003, is appended hereto.

(3) The Declaration was signed and dated by all the inventors (Meng H. Lean, John J. Ricciardelli, Michael J. Savino, Osman T. Polatkan, Fred R. Stolfi & Eric Lindale).

(4) A Transmittal form was included with the Application papers (a copy of the Transmittal form is appended hereto) The Transmittal form has Docket No. D/A1175 which is the same Docket No. that appears on the front page of the Specification (a copy of the front page of the Specification is appended hereto). The Transmittal form indicates that the Declaration is being filed with the Application papers. The Transmittal form identifies the Express Mail Number EV327673057US on the "Express Mail" mailing label attached to the envelope used for mailing the Application papers.

(5) A Post Card was included with the Application papers (a copy of the Post Card form is appended hereto). The Post Card has Docket No. 690-011188-US(PAR) which is the same Docket No. that appears on the front page of the Specification. The Post Card also indicates that the Declaration is being filed with the application papers.

(6) An Express Mail Certificate was included with the Application papers (a copy of which is appended hereto), stating that the Transmittal form and the papers identified on the Transmittal form, including the Declaration, were mailed within the same correspondence having Express Mail No. EV 327673057US on the indicated date using the "Express Mail" service of the USPS.

(7) The Filing Receipt issued in this application indicates that the Application papers were received by the USPTO.

(8) The Applicant has completed in the filing on July 28, 2003 all requirements for filing a non-provisional application pursuant to 37 C.F.R. 1.51 and 1,53(b).

In conclusion, in view of the above it is submitted that the Notice is incorrect and defective and should be withdrawn.

Further, as this petition is necessitated through no failure of the Applicant, it is requested that no petition fee be charge to the Applicant.

Please charge any fee deficiency arising from the filing of this amendment to Deposit Account No. 16-1350.

Respectfully submitted,



Janik Marcovici (Reg. No. 42,841)

11/3/03
Date

PERMAN & GREEN, LLP
425 Post Road
Fairfield, CT 06430
(203) 259-1800
Customer No.: 2512

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date shown below in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

11/4/03
Date



Name of Person Making Deposit